

**Executive Summary – Enforcement Matter – Case No. 47980**  
**Town of Westlake**  
**RN107003600**  
**Docket No. 2013-2122-WQ-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

WQ

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Westlake Sewage Collection System, located at 3 Village Circle, Suite 202, with a lift station located south of State Highway 114, Westlake, Denton County

**Type of Operation:**

Wastewater collection system with a lift station

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 11, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$30,000

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$30,000

Name of SEP: City of Haltom City

**Compliance History Classifications:**

Person/CN - Unclassified

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 47980**  
**Town of Westlake**  
**RN107003600**  
**Docket No. 2013-2122-WQ-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** October 4, 2013

**Date(s) of NOE(s):** November 8, 2013

***Violation Information***

Failed to prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

a. By October 4, 2013:

- i. Ceased the unauthorized discharge of wastewater;
- ii. Restored manual pump operation at the lift station;
- iii. Repaired and/or replaced the lift station's automated pump and alarm systems; and
- iv. Cleaned the lift station's wet well; properly removed and disposed of all wastewater in the wet well; and placed the lift station back into service.

b. By October 8, 2013:

- i. Properly removed and disposed of the wastewater from the area surrounding the lift station; the unnamed creek; and the ponds;
- ii. Properly removed and disposed of the dead fish; and
- iii. Applied lime to the affected areas of the unnamed creek.

c. By October 10, 2013, refilled the ponds with de-chlorinated water.

**Executive Summary – Enforcement Matter – Case No. 47980  
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**Technical Requirements:**

The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Christopher Bost, Enforcement Division,  
Enforcement Team 1, MC 169, (512) 239-4575; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Thomas G. Brymer, Town Manager, Town of Westlake, 3 Village Circle,  
Suite 202, Westlake, Texas 76262  
The Honorable Laura Wheat, Mayor, Town of Westlake, 3 Village Circle, Suite 202,  
Westlake, Texas 76262

**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2013-2122-WQ-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Town of Westlake</b>
<b>Penalty Amount:</b>	<b>Thirty Thousand Dollars (\$30,000)</b>
<b>SEP Offset Amount:</b>	<b>Thirty Thousand Dollars (\$30,000)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Administrator SEP</b>
<b>Third-Party Administrator:</b>	<b>City of Haltom City</b>
<b>Project Name:</b>	<b><i>Wastewater Treatment Assistance for Low-Income Haltom City Residents</i></b>
<b>Location of SEP:</b>	<b>Tarrant County; Trinity River Basin</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **City of Haltom City** for the *Wastewater Treatment Assistance for Low-Income Haltom City Residents* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to assist up to five families per year with upgrading and improving their on-property sewer connections. Haltom City shall establish a pool of funds to which Haltom City residents may apply to cover the cost of sewer connection repair. The SEP Offset Amount will be used to pay a contractor for repair and replacement of sewer connections. In order to participate in this Project, Haltom City residents applying for assistance must provide proof that they meet low-income requirements. Low-income households fall at or below the 80 percent median income level for households in the county where they live. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

Town of Westlake  
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This Project will repair faulty sewer connections which, if left unrepaired, would release raw sewage into the environment. When this occurs, ground surface, drinking water sources, and human wildlife health are impacted. These releases can run off into storm water systems, which flow into the Trinity River through creeks and drainage basins. The Trinity River Watershed is the source of five reservoirs that provide water to the majority of residents in the Dallas/Fort Worth area. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause algae blooms, and kill fish and other organisms in aquatic habitats.

This Project has the potential to not only improve water quality but will also improve the public health for a sector of the population that is least able to afford health care. Contact with sewage may cause diseases that range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through sewage in drinking water sources, direct contact from sewage in lawns or streets, and through inhalation and skin absorption.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **City of Haltom City SEP** and shall mail the contribution with a copy of the Agreed Order to:

City of Haltom City  
Attention: Fran Burns, Community Projects Coordinator  
5024 Broadway Avenue  
Haltom City, Texas 76117

### **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

### **5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**  
**DATES**

Assigned 12-Nov-2013  
PCW 2-Dec-2013

Screening 26-Nov-2013

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Town of Westlake  
Reg. Ent. Ref. No. RN107003600  
Facility/Site Region 4-Dallas/Fort Worth Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 47980  
Docket No. 2013-2122-WQ-E  
Media Program(s) Water Quality  
Multi-Media

No. of Violations 1  
Order Type Findings  
Government/Non-Profit Yes  
Enf. Coordinator Christopher Bost  
EC's Team Enforcement Team 1

Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000

## Penalty Calculation Section

### TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$37,500

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 5.0% Enhancement Subtotals 2, 3, & 7 \$1,875

Notes Enhancement for one NOV with same or similar violations.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$9,375

Economic Benefit 0.0% Enhancement\* Subtotal 6 \$0

Total EB Amounts \$2  
Approx. Cost of Compliance \$1,500

\*Capped at the Total EB \$ Amount

### SUM OF SUBTOTALS 1-7

Final Subtotal \$30,000

### OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$30,000

### STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$30,000

### DEFERRAL

0.0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

### PAYABLE PENALTY

\$30,000

Screening Date 26-Nov-2013

Docket No. 2013-2122-WQ-E

PCW

Respondent Town of Westlake

Policy Revision 3 (September 2011)

Case ID No. 47980

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN107003600

Media [Statute] Water Quality

Enf. Coordinator Christopher Bost

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with same or similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 5%

Screening Date 26-Nov-2013

Docket No. 2013-2122-WQ-E

PCW

Respondent Town of Westlake

Policy Revision 3 (September 2011)

Case ID No. 47980

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN107003600

Media [Statute] Water Quality

Enf. Coordinator Christopher Bost

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state, as documented during an investigation conducted on October 4, 2013. Specifically, approximately 213,000 gallons of untreated wastewater discharged from a lift station located south of State Highway 114 ("TX-114") to an unnamed creek thence to ponds near the intersection of TX-114 and Trophy Club Drive between September 30, 2013 and October 4, 2013, resulting in the fish kill of approximately 400 fish.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed protective levels as a result of the violation.

Adjustment \$17,500

\$7,500

## Violation Events

Number of Violation Events 5

5 Number of violation days

mark only one  
with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$37,500

Five daily events are recommended.

## Good Faith Efforts to Comply

25.0% Reduction

\$9,375

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

(mark with x)

Notes

The Respondent returned to compliance by October 10, 2013.

Violation Subtotal \$28,125

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$30,000

This violation Final Assessed Penalty (adjusted for limits) \$30,000

# Economic Benefit Worksheet

Respondent Town of Westlake

Case ID No. 47980

Reg. Ent. Reference No. RN107003600

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,500	30-Sep-2013	10-Oct-2013	0.03	\$2	n/a	\$2
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to cease the unauthorized discharge; restore the operation of the lift station; properly recover and dispose of the wastewater collected from the affected areas; properly remediate the affected areas; remove and properly dispose of the dead fish; and refill the affected ponds with dechlorinated water. Date required is the initial date of the discharge and the final date is the date that all of the required corrective actions were completed.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$2



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600701916, RN107003600, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600701916, Town of Westlake	<b>Classification:</b> UNCLASSIFIED	<b>Rating:</b> -----
<b>Regulated Entity:</b>	RN107003600, WESTLAKE SEWAGE COLLECTION SYSTEM	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	Located at 3 Village Circle, Suite 202, with an associated lift station located south of State Highway 114 in Westlake, Denton County, Texas		
<b>TCEQ Region:</b>	REGION 04 - DFW METROPLEX		
<b>ID Number(s):</b>			

<b>Compliance History Period:</b>	September 01, 2008 to August 31, 2013	<b>Rating Year:</b>	2013	<b>Rating Date:</b>	09/01/2013
<b>Date Compliance History Report Prepared:</b>	January 08, 2014				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	January 08, 2009 to January 08, 2014				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Christopher Bost	<b>Phone</b>	(512) 239-4575		

## Site and Owner/Operator History:

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | NO  |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |
| 3) If <b>YES</b> for #2, who is the current owner/operator?  | N/A |
| 4) If <b>YES</b> for #2, who was/were the prior owner(s)/operator(s)?                              | N/A |
| 5) If <b>YES</b> , when did the change(s) in owner or operator occur?                              | N/A |

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	12/09/2013	(1134074)
	Self Report?	NO	

Classification: Moderate

Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(2) 2D TWC Chapter 26, SubChapter A 26.121(a)(3)
Description:	Failure to prevent the unauthorized discharge of wastewater from the collection system.
Self Report?	NO
	Classification: Minor
Citation:	30 TAC Chapter 217, SubChapter C 217.59(b) 30 TAC Chapter 317 317.3(a)
Description:	Failure to adequately secure the lift station.

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TOWN OF WESTLAKE  
RN107003600**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2013-2122-WQ-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the Town of Westlake ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater collection system located at 3 Village Circle, Suite 202, with an associated lift station located south of State Highway 114 in Westlake, Denton County, Texas (the "Site").

2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on October 4, 2013, TCEQ staff documented that the Respondent did not prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state. Specifically, approximately 213,000 gallons of untreated wastewater discharged from a lift station located south of State Highway 114 ("TX-114") to an unnamed creek thence to ponds near the intersection of TX-114 and Trophy Club Drive between September 30, 2013 and October 4, 2013, resulting in the fish kill of approximately 400 fish.
4. The Respondent received notice of the violation on November 12, 2013.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
  - a. By October 4, 2013:
    - i. Ceased the unauthorized discharge of wastewater;
    - ii. Restored manual pump operation at the lift station;
    - iii. Repaired and/or replaced the lift station's automated pump and alarm systems; and
    - iv. Cleaned the lift station's wet well; properly removed and disposed of all wastewater in the wet well; and placed the lift station back into service.
  - b. By October 8, 2013:
    - i. Properly removed and disposed of the wastewater from the area surrounding the lift station; the unnamed creek; and the ponds;
    - ii. Properly removed and disposed of the dead fish; and
    - iii. Applied lime to the affected areas of the unnamed creek.
  - c. By October 10, 2013, refilled the ponds with dechlorinated water.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Thirty Thousand Dollars (\$30,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Thirty Thousand Dollars (\$30,000) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Thirty Thousand Dollars (\$30,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Town of Westlake, Docket No. 2013-2122-WQ-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 above, Thirty Thousand Dollars (\$30,000) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any

other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Davie  
For the Executive Director

5/26/14  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the Town of Westlake. I am authorized to agree to the attached Agreed Order on behalf of the Town of Westlake, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the Town of Westlake waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Thomas E. Brymer  
Signature

3/7/2014  
Date

Thomas E. Brymer  
Name (Printed or typed)  
Authorized Representative of  
Town of Westlake

Town Manager  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.

**Attachment A**  
**Docket Number: 2013-2122-WQ-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Town of Westlake</b>
<b>Penalty Amount:</b>	<b>Thirty Thousand Dollars (\$30,000)</b>
<b>SEP Offset Amount:</b>	<b>Thirty Thousand Dollars (\$30,000)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Administrator SEP</b>
<b>Third-Party Administrator:</b>	<b>City of Haltom City</b>
<b>Project Name:</b>	<b><i>Wastewater Treatment Assistance for Low-Income Haltom City Residents</i></b>
<b>Location of SEP:</b>	<b>Tarrant County; Trinity River Basin</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **City of Haltom City** for the *Wastewater Treatment Assistance for Low-Income Haltom City Residents* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to assist up to five families per year with upgrading and improving their on-property sewer connections. Haltom City shall establish a pool of funds to which Haltom City residents may apply to cover the cost of sewer connection repair. The SEP Offset Amount will be used to pay a contractor for repair and replacement of sewer connections. In order to participate in this Project, Haltom City residents applying for assistance must provide proof that they meet low-income requirements. Low-income households fall at or below the 80 percent median income level for households in the county where they live. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

Town of Westlake  
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This Project will repair faulty sewer connections which, if left unrepaired, would release raw sewage into the environment. When this occurs, ground surface, drinking water sources, and human wildlife health are impacted. These releases can run off into storm water systems, which flow into the Trinity River through creeks and drainage basins. The Trinity River Watershed is the source of five reservoirs that provide water to the majority of residents in the Dallas/Fort Worth area. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause algae blooms, and kill fish and other organisms in aquatic habitats.

This Project has the potential to not only improve water quality but will also improve the public health for a sector of the population that is least able to afford health care. Contact with sewage may cause diseases that range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through sewage in drinking water sources, direct contact from sewage in lawns or streets, and through inhalation and skin absorption.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **City of Haltom City SEP** and shall mail the contribution with a copy of the Agreed Order to:

City of Haltom City  
Attention: Fran Burns, Community Projects Coordinator  
5024 Broadway Avenue  
Haltom City, Texas 76117

### **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

### **5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.